

# MCX'SX

India's New Stock Exchange

MCX STOCK EXCHANGE LTD.

DISCIPLINARY ACTION COMMITTEE

ORDER UNDER RULES 1 & 2 OF CHAPTER V OF THE RULES OF MCX STOCK EXCHANGE LIMITED

## 1. Background:

- 1.1 Aanya Commodities Pvt. Ltd. is a trading Member on the Currency Derivatives (CD) segment of MCX Stock Exchange Ltd. ("the Exchange") and is registered with Securities and Exchange Board of India (SEBI) as a trading Member on CD segment of the Exchange with registration No. INE261338037 on April 27, 2009.
- 1.2 The Member has not activated its membership on the Exchange till date and there are no deposits of the member with the Exchange.
- 1.3 SEBI has advised the Exchange to carry out inspection of even those members who are not activated on the Exchange for trading. The scope of such inspection is verification of:
  - i. Compliance with Regulation 8 (1) (f) & 8 (3) (f) of SCRR i.e. (not to deal in commodities / business other than securities)
  - ii. Unapproved changes such as change in the control of member entity, Change in the constitution, change in the shareholding, etc.
  - iii. compliance with Net worth criteria as prescribed
  - iv. location of Member's office as per the details available with the Exchange

## 2. Inspection:

- 2.1 The Member was selected for inspection in the 'Not Activated' Category.
- 2.2 This was communicated to the member vide Exchange letter ref. no. MCX-SX/INS/RE/01/427/13-14/6874 dated May 13, 2013. The letter was sent on the address provided by the member to the Exchange, which is: 43, Tamrind Lane, Opp Bombay House, Fort, Mumbai - 400023. However the letter was returned stating the reason as 'short address'. It was also sent to the member's email id available with the Exchange viz. sm\_61@hotmail.com on the same day.
- 2.3 The Exchange then verified the member's details on the website of Ministry of Corporate Affairs (MCA), Registrar of Companies (ROC). It was observed that the registered office



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address on ROC records was Shop No. 2, C-Wing 29/41, Tamrind lane, Opp. Bombay House, Fort, Mumbai - 400023.

- 2.4 The Exchange then sent another letter no MCX-SX/INS/RE/01/427/13-14/7625 dated May 17, 2013 intimating the member about inspection on the address as available on MCA website communicating that an inspection shall be carried out by the Exchange officials on or after May 20, 2013 however, the same was also returned undelivered with remarks "No Such consignee at given address."
- 2.5 On October 22, 2013 at 10.15 a.m. the Exchange official visited the member's office at Shop No. 2, C-Wing 29/41, Tamrind lane, Opp. Bombay House, Fort, Mumbai - 400023 (address mentioned on MCA website) to conduct inspection. However, he found the place closed. On enquiring with local shopkeepers nearby he was informed that no such entity is located at the said address and no company by the name Aanya Commodities Pvt. Ltd. operated from the said premises. The Exchange official then tried to communicate with the member on the numbers available with the Exchange, but same were not answered.
- 2.6 The inspection, hence, could not be carried out on the scheduled day of October 22, 2013. The Exchange officials again tried to communicate with the member on the numbers available with the Exchange but the calls were not answered.
- 2.7 Upon verification of member's details on the internet, it was observed that Aanya Commodities Pvt. Ltd is an Associate of Rank Commodities Pvt. Ltd. who is the member of Multi Commodity Exchange of India Ltd.
- 2.8 The Directors of the member and Rank Commodities are common ie. Mr Sunil Mirpuri and Ms Hemal Thakkar.
- 2.9 The Exchange officials tried to contact Mr Sunil Mirpuri, Director of Aanya Commodities Pvt. Ltd multiple times on the telephone numbers of Rank Commodities, however, could not get past the operator. Every time the operator advised to call after 2-3 hours.
- 2.10 The Exchange official then called Mr. Sunil Mirpuri on the mobile number given by the telephone operator. It was picked-up by someone who said he was the cousin of Mr. Sunil Mirpuri and that Mr. Sunil Mirpuri has gone abroad and could not be contacted.
- 2.11 Upon exhausting all options to contact and conduct inspection, it was decided to send the inspection intimation letter on the address of Rank Commodities Pvt. Ltd.



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2.12 Accordingly, a letter no. MCX-SX/INS/RE/01/427/13-14/20389 dated November 21, 2013 was sent to the member. The letter was sent on the address of Rank Commodities Pvt Ltd. at Unit No. 9 & 10, 3 Sunville Building, 363 V P Road, Mumbai 400004 advising the member to co-operate with the Exchange in inspection by providing date for conducting inspection, submitting Inspection Data Requisition with Annexures, Audited Balance Sheet, Profit & Loss account as per Dr L C Gupta Committee format. Copies of the said letter were also sent on following addresses:

Mr Sunil Mirpuri, Director Aanya Commodities Pvt.Ltd. Shop No. 2, C-Wing 29/41, Tamrind lane, Opp. Bombay House, Fort, Mumbai - 400023	Mr Sunil Mirpuri, Director Aanya Commodities Pvt.Ltd. 43, Rajabhadur Mansion Tamrind Lane Opp Bombay House Fort, Mumbai - 400023
Mr Sunil Mirpuri, Director Aanya Commodities Pvt.Ltd. 141 Lovely Home 9, Cuffe Parade, Mumbai - 400005	Ms Hemal Thakkar, Director 256, Mudula Mansion, Ground Floor Building No. 1 & 22, Wadala Mumbai 400031

2.13 The said letter was also sent by email on November 21, 2013 to email id sm\_61@hotmail.com. No response was received from the member.

2.14 Since no response was received the member, following reminders were also sent, however, no response was received for these reminders too:

Sr No	Letter No & Date	Advised to co-operate in inspection and provide data by
1	MCX-SX/INSP/RE/07A/2013-14/52 dated January 3, 2014	January 10, 2014
2	MCX-SX/INSP/RE/07A/2013-14/208 dated January 10, 2014	January 17, 2014
3	MCX-SX/INSP/RE/07A/2013-14/593 dated January 28, 2014	February 4, 2014

2.15 From the proofs of dispatch it was observed that:

a. the letters sent on the following addresses were received by the member:

Mr Sunil Mirpuri, Director Rank Commodities Pvt Ltd. Unit No. 9 & 10, 3 Sunville Building, 363 V P Road, Mumbai 400004	Mr Sunil Mirpuri, Director Aanya Commodities Pvt.Ltd. 141 Lovely Home 9, Cuffe Parade Mumbai - 400005	Ms Hemal Thakkar, Director 256, Mudula Mansion, Ground Floor Building No. 1 & 22, Wadala Mumbai 400031
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b. whereas the letters were returned from following addresses with remarks 'Shifted-RTO':

Mr Sunil Mirpuri, Director Aanya Commodities Pvt.Ltd. Shop No. 2, C-Wing 29/41, Tamrind lane, Opp. Bombay House, Fort, Mumbai - 400023	Mr Sunil Mirpuri, Director Aanya Commodities Pvt.Ltd. 43, Rajabhadur Mansion Tamrind Lane, Opp Bombay House Fort, Mumbai - 400023
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**3. Observations & Show Cause Notice & Hearing before the Committee:**

- 3.1 The Exchange then issued a show cause notice to the member vide letter no. MCX-SX/INSP/RE/07/427/2013-14/886 dated February 14, 2014. The letter were sent on all the above mentioned 5 locations:
- 3.2 As mentioned above, the letters were delivered to addresses viz pin code 400004, 400005 and 400031 whereas returned with a remark "RTH Shifted" from pin code 400023.
- 3.3 Since no reply was received, a reminder was sent vide letter no. MCX-SX/INSP/RE/07/427/2013-14/1003 dated February 24, 2014. Still there was no response from the member.
- 3.4 On February 18, 2014, one of the directors Ms Hemal Thakkar, telephonically informed that the associate company of Aanya Commodities Pvt. Ltd i.e. Rank Commodities Pvt Ltd (Rank) which is the member of MCX has been suspended by FMC, and that she shall submit her reply. However, no reply was received from her.
- 3.5 Upon verification of suspension case of Rank, it was observed that RANK was suspended by FMC vide order dated July 26, 2011 for irregularities observed during inspection.
- 3.6 The irregularities consisted of some very serious violations. Details of the irregularities pointed out in FMC Oder are as under:
- 3.6.1 use of client money for own use,
  - 3.6.2 misuse of client funds, accepting large amounts of cash from clients,
  - 3.6.3 unauthorized transfer of funds from one client account to another,
  - 3.6.4 transfer of profits from one client's account to multiple clients' accounts
  - 3.6.5 Member's margin is utilized for funding of client margin.
  - 3.6.6 Profit has been transferred from one particular account (Narain Vaswani, a NRI) to various accounts.





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- 3.6.7 Undertaking trading for a client who is not a registered client at the Exchange level.
  - 3.6.8 Carrying out Portfolio Management Services (PMS)
  - 3.6.9 Non-maintenance of Net worth as prescribed by the Exchange for a Member
  - 3.6.10 sharing of brokerage with a person who is not an approved user
  - 3.6.11 Transfer of shares of wholly owned subsidiary of the Member to other entity in which both the directors of parent company are Directors
  - 3.6.12 Dealing with unregistered intermediaries.
  - 3.6.13 Involving in activities like cheque discounting, dealing in cash through 'Hawala' operators.
  - 3.6.14 Transfer of trades 'from one client to another clients in the back office without effecting those changes on the exchange platform
- 3.7 RANK was also prohibited from entering into any forward contracts for the sale or purchase in its own name or any other member of a recognized commodity exchange of goods or class of goods, for a period of two years.
- 3.8 FMC also restrained Mr Sunil Mirpuri and Ms Hemal Thakkar from entering into any forward contracts for the sale or purchase in their own name or any other member of any recognized commodity exchange of goods or class of goods, for a period of two years. Mr Sunil Mirpuri and Ms Hemal Thakkar are also the directors of Exchange member viz. Aanya Commodities Pvt. Ltd.
- 3.9 It was noted that the Directors of Rank Commodities and Aanya Commodities are common.

#### 4. Considerations:

- 4.1 The Exchange then placed the matter before the DAC in its meeting held on March 31, 2014. The member was informed of the same vide letter no. MCX-SX/INSP/RE/10/427/2013-14/1700 dated March 20, 2014 and offered a personal hearing before the Committee to present his case. The member was also informed that in case they do not appear before the DAC, the matter shall be decided on the basis of material available on record which may include expulsion from the membership of the Exchange. The member neither appeared before the committee nor sent any reply to the Exchange.

The following facts and records have been considered by the Committee while arriving at the decision of the case



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- 4.2 The Exchange has followed up with the member on numerous occasions by sending various letters /reminders to the member on multiple addresses.
- 4.3 The member did not send any reply, neither allowed he exchange to conduct inspection nor submitted any documents for verification.
- 4.4 The violations for which FMC had issued the order are of very serious nature and Directors are too restricted from accessing the commodities market
- 4.4.1 Regulation 16.1 of the Regulations of the Exchange empowering the Exchange to undertake inspection of books of accounts, other records and documents of its Trading Members.
- 4.4.2 Regulation 15.1.14 of the Regulations of the Exchange requiring the Members to intimate to the Exchange the place where these records are kept and make it available for audit/inspection.
- 4.4.3 Regulation 4.2.1 (d) of the Regulations of the Exchange, requiring the Member to maintain such records and make available for inspection by any person authorised in this behalf by the Exchange, the information related to such Trading Member's financial condition as specified by the Exchange for this purpose.
- 4.4.4 Bye-Law 2(h) of Chapter VI of the Bye-laws of the Exchange, requiring the Member to extend full co-operation and furnish such information and explanation as may be required for the purpose of any inspection or audit authorised by the relevant authority or other authorised official of the Stock Exchange into or in regard to any trades, dealings, their settlement, accounting and/or other related matters.
- 4.4.5 Regulation 15.2 of the Regulations of the Exchange specifying that the Member shall prepare, maintain and submit to the Exchange, annual accounts for each financial year, not later than six months after the end of the Trading Members financial year.
- 4.4.6 Exchange circular no. MCX-SX/MEM/49/2009 dated January 13, 2009 prescribing the Net worth requirement of Rs. 1 Crore for trading members of the Exchange in Currency Derivatives. Not maintaining Net worth as per the prescribed limit is in violation of Regulation 16L (2) of SEBI Stock Broker and Sub broker Regulations, 1992, Rule 32 of the Rules of the Exchange and Exchange circular no. MCX-SX/MEM/49/2009 dated January 13, 2009.
- 4.4.7 Exchange circular no. MCX-SX/MEM/1265 /2013 dated June 20, 2013 (and all other circulars issued on a yearly basis on the subject), and SEBI circular no.



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Cir/MIRSD/14/2011 dated August 2, 2011 mandating the members to submit information to the Exchange on shareholding /dominant promoter group and details and director details.

- 4.5 Even after repeated follow-ups, the member neither allowed the exchange to conduct inspection nor submitted any documents for verification.

## 5. Decision

5.1 We note that the Exchange has followed up with the member on numerous occasions and was given due opportunities for presenting their case in person multiple times before the DAC of the Exchange. It is also evident that the principle of natural justice was aptly followed by the Exchange in its approach.

5.2 In terms of Rule 32 of the Exchange 'The relevant authority shall from time to time prescribe conditions and requirements for continued admittance to trading membership which may, inter alia, include maintenance of minimum net worth and capital adequacy, renewal of certification, if any, etc. The trading membership of any person who fails to meet these requirements shall be liable to be terminated.'

5.3 Rule 1 and 2 of Chapter 5 of the Rules of the Exchange, provides that

5.3.1 **Rule 1:** "The relevant authority may expel or suspend and/or fine under censure and/or warn and/or withdraw any of the membership rights of a trading member if it be guilty of contravention, non-compliance, disobedience, disregard or evasion of any of the Bye Laws, Rules and Regulations of the Stock Exchange or of any resolutions, orders, notices, directions or decisions or rulings of the Stock Exchange or the relevant authority or of any other Committee or officer of the Stock Exchange authorised in that behalf or of any conduct, proceeding or method of business which the relevant authority in its absolute discretion deems dishonorable, disgraceful or unbecoming a trading member of the Stock Exchange or inconsistent with just and equitable principles of trade or detrimental to the interests, good name or welfare of the Stock Exchange or prejudicial or subversive to its objects and purposes"

5.3.2 **Rule 2:** In particular and without in any way limiting or prejudicing the generality of the provisions in Rule (1) above, a trading member shall be liable to expulsion or suspension or withdrawal of all or any of its membership rights

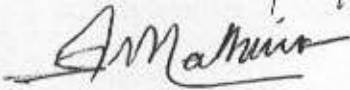


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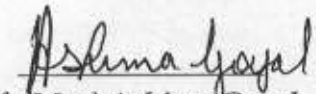
*and/or to payment of a fine and/or to be censured, reprimanded or warned for any misconduct, un-businesslike conduct or unprofessional conduct in the sense of the provision in that behalf contained herein.*

- 5.4 Considering the series of events, the provisions of the rules of the exchange and the non-inclination of the member to comply with the requirements of the Exchange and SCRR, 1957, and the seriousness of violations observed by FMC, we hereby direct that the member Aanya Commodities Pvt. Ltd., be expelled from the membership of the exchange with immediate effect.

Dated on this 26/06/2014



Thomas Mathew T.

  
Prof. (Mrs.) Ashima Goyal

CERTIFIED TRUE COPY



